

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

HARRY WAYNE HANCE,)	
d/b/a H&H FIREARMS, and)	
LARRY WARREN HANCE, SR.)	
)	
Plaintiffs,)	
)	
vs.)	NO. 3:14-cv-42
)	JURY DEMAND
THE QUIKRETE COMPANIES, INC.)	JUDGE VARLAN
)	JUDGE GUYTON
Defendant.)	
)	

AMENDED COMPLAINT

Comes the Plaintiffs complaining of the Defendant and would show unto the Court:

1. Jurisdiction This Court has jurisdiction to hear this case pursuant to Title 28 USC §§ 1332 in that this is a case where the parties are citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of cost and interest.

2. Parties

2.1 Plaintiff The Plaintiff Harry Wayne Hance [Hance] is a citizen of the State of Tennessee. At all times mentioned in this Complaint, Hance was the owner, and sole proprietor of a business named H&H Firearms, located at 262 Rocktown Road, Jefferson City, Tennessee 37760.

2.2 Plaintiff The Plaintiff, Larry Warren Hance, Sr. [Hance, Sr.] is the brother of Harry Wayne Vance and is a citizen of the State of Tennessee. At all times mentioned in this Complaint he lived at the same location as his brother.

2.3 Defendant The Defendant, The Quikrete Companies, Inc. [Quikrete] is a foreign corporation whose principal place of business is Atlanta, GA. Quikrete owns and operates an entity named Quikrete of Tennessee located at 269 Rocktown Road, Jefferson City, Tennessee 37760. Quikrete of Tennessee makes concrete.

3. Facts

3.1 Hance and his family, to include Hance Sr., have operated the H&H Firearms business at the Rocktown location for over fifty one (51) years. Hance, Sr. lives at this location.

3.2 Quikrete built the company located on Rocktown Road in 1969. The plant produces cement. Starting in 1969 and continuing intermittently until the present day, Quikrete's Rocktown Road plant emits toxic silica based dust that covers the Plaintiff Hance's business and Plaintiff Hance Sr.'s home, both near the plant causing breathing problems and covering the business and the home with dust. The exact cause of the emissions is within the particular knowledge of the Defendant and cannot be determined without the aid of the discovery process found in the Federal Rules of Civil Procedure. But it is the information and belief of the Plaintiffs that, at various times, the plant deviates from EPA and State emissions guidelines designed to prevent such emissions.

3.3 This dust has interfered with the both Plaintiffs' use and enjoyment of their business and home to the extent that it has caused them loss of business income and great emotional distress. During the last year the dust clouds have increased in frequency, size and duration.

4. Nuisance The actions of the Defendant Quikrete heretofore set forth constitute a permanent private nuisance which had and has interfered with the Plaintiffs' use and enjoyment of their property.

5. Damages As a direct and proximate result of the heretofore set forth actions of the Defendant, the Plaintiffs have suffered economic loss, great emotional distress and anxiety.

WHEREFORE, PLAINTIFFS PRAY TO THE COURT:

1. That they be granted a jury to hear this cause of action.
2. That they be awarded compensatory damages in the amount of six hundred thousand (\$600,000.00) dollars to Harry Wayne Hance and three hundred thousand (\$300,000.00) dollars to Larry Warren Hance, Sr.
3. That the Court use its inherent injunctive relief to Order the Defendant to cease and desist allowing the dust from its plant to contaminate and harm the Plaintiffs and their property or make the proper repairs or maintenance required to stop the emissions.
4. That they be awarded the costs of this case.
5. That they be granted such other and further relief as the Court may deem fit and proper.

Respectfully submitted,

/s/Phillip L. Davidson
Phillip L. Davidson, #6466
Attorney at Law
2400 Crestmoor Road
Suite 107
Nashville, TN 37215
(615) 386-7115

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Amended Complaint has been sent electronically to

The Quikrete Companies, Inc.
C/o C.T. Corporation Systems, Inc.
800 South Gay Street, Suite 2021
Knoxville, TN 37929-9710

On this date.

/s/ Phillip L. Davidson
Phillip L. Davidson